

CIVIL DOCKET
UNITED STATES DISTRICT COURT

JUDGE BRETT

Jury demand date: 10-30-74 (Pltf)

74-C-427
76-C-460
Consolidated

D. C. Form No. 106A Rev.

mc

TITLE OF CASE	ATTORNEYS
GERALD GRESHAM, vs NEILL-PRICE CONSTRUCTION CO., and NEILL-PRICE INTERNATIONAL, INC., defendants.	For plaintiff: Paul C. Matthews 11 Broadway New York, N. Y. 10004 8-903-344-1936 Co Counsel Ben T. Lampkin John Norman Lampkin, Wolfe, Burger, McCaffrey & Norman 815 Cravens Bldg. Okla. City, OK 73102 272-9611 John Norman 272-0200 For defendant: John H. Tucker Chris Rinder E. D. Hieronymus 2900 Fourth Natl. Bank Bldg. Tulsa, OK 74119 (582-1173) Francis C. Dixon 102 Maiden Lane New York, NY 10005 212-791-7447

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 11/1/74 5-1-77	Clerk	10-30-74	P. Matthews	15 00	15 00
J.S. 6 mailed 8-1-76 6-1-80	Marshal	10-31-74	C/D #20		
Basis of Action: Money judgment for PI due to negligence.	Docket fee				
	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
10-30-74	1. Complaint, filed. Summons, issued.k <u>DEMAND FOR JURY TRIAL.</u>	
11-8-74	Summons, ret. & filed: served Price Company, Bartlesville, Ok. by serving Alton H. Roland, counsel for H.C.Price Co., 11-7-74. (USM \$15.00)g	
11-27-74	2. Defts.' Motion to Dismiss, filed.k	
11-27-74	3. Memorandum in support of motion to dismiss for improper service of process, filed.k	
11-27-74	MO: It is ordered by the Court that pltf. is granted ten days from this date to respond to defts.' motion to dismiss. (AEB-J)k	
12-9-74	4. Affidavit of atty. for pltf. in opposition to def. mo/dismiss, filed. rm	
12-12-74	5. Affidavit of Alton Rowland, filed. hm	
12-20-74	Summons, ret. & filed: served Neill-Price International, Inc., Tulsa, Ok. 12-19-74. (USM \$3.00)g	
1-6-75	6. Motion to dismiss of defs., w/affidavit of E. D. Hieronymus attached, filed. rm	
1-6-75	7. Memorandum in support of defs. mo/dismiss, filed. rm	
1-7-75	MO: Ordered by the Ct. that pltf. is granted until 1/22/75 to respond to defs. mo/dismiss, w/brief if opposed. (AEB-J)rm - ltr written	
1-13-75	8. Appl. of defts. for time to ans or obj. to interrog. of pltf. of 12-13-74 until after disposition of the Motion to Dismiss, filed.k	
1-14-75	9. Order, filed, granting defts. 20 days after disposition of defts' mot. to dismiss within which to answer or object to interrogatories. (AEB-J)g <i>C. D. B. B. B.</i>	
1-22-75	10. Interrogatories by pltf. to def., filed. rm	
1-22-75	11. Brief of pltf. in opposition to def. mo/dismiss, filed. rm	
2-4-75	12. ANSWER of deft, Neill-Price International, Inc., filed. lm	
2-24-75	13. Notice of motion of pltf. counsel, requesting waiver of local Rule 5(h) re local counsel, until jurisdiction question solved, filed. rm <i>copy to ...</i>	
2-25-75	MO: Ordered by the Ct. that upon pltf. motion to waive local rule 5(h) re local counsel, this Rule is waived for a period of 60 days from this date, with pltf. counsel to advise Ct. within that period of time of the status thereof. (AEB-J)rm-ltr	
3-19-75	MO: Case referred to Mag. Bradford for hrg/cec re pending mots. (AEB-J)k	
4-30-75	Case called for hearing on motions. No appearances made. Defts having filed answer, the motion to dismiss are moot.(MLD:Mag) b	
5-19-75	Deft's application to amend answer, filed. b	
5-19-75	MO: Ordered by the Court that Pltf. file a responsive brief within 10 days to the Deft's application to amend answer.(AEB-J)b	
6-3-75	15' ORDER, filed, granting deft. Neill-Price International, Inc. its application to amend answer, XXXXXX (AEB-J)lm cps mld.	
6-5-75	16' Amendment to ANSWER w/COUNTERCLAIM, filed. lm	

(CONTINUED)

DATE	PROCEEDINGS	Date Order or Judgment Noted
11-6-75	17. Plaintiff's motion to dismiss without prejudice with affidavit of Paul C. Matthews in support thereof, filed.k	
11-6-75	MO: It is ordered by the Court that the Defendants are hereby granted 10 days to respond to the Plaintiff's Motion to Dismiss without Prejudice. (AEB-J)k cps mld	
11-17	18. Defts' response to pltf's motion to dismiss, filed. ph	
11-21 12-10	MO: Case set for hearing before the Magistrate on 12-10-75 at 9:00 a.m. (MLB-Mag)k Case called for hearing before Magistrate on Pltf's motion to dismiss w/out prejudice w/affid. in support, & Defts motions to dismiss filed 11-27-74 & 1-6-75 & applic. to amend answer./Pltf's motion denied. Defts motions moot. Deft. to prepare F&R & Order in 5 days.(MLB-Mag)b	
12-16 1976	19. Findings and recommendations of the Magistrate, filed, that pltf's mot. to dismiss pursuant to rule 41(a)(2) be denied. (MLB-Mag)k cps mld	
1-6	20. Ordered that Pltf's Mot. to Dismiss pursuant to Rule 41(A)(2) be and same is hereby denied, filed.(AEB-J)tc cps. mld.	
6-17	MO: Case set for disposition on 7-12-76 at 11:00 a.m. for failure of deft. Neill-Price Construction Co. to answer. (AEB-J)k ntc by cert ml	
7-12	Case called for disposition. Pltf not represented. Deft. represented. Ct. dismisses case w/prejudice for failure to prosecute. Deft. to prepare order w/in 3 days.(AEB-J)b	
7-16	Order, filed & entered, dismissing case with prejudice and dismissing Counterclaim of defendants as moot. (AEB-J)s cps. mld.	
8-13	Notice of appeal by plaintiff, filed. g (cp to USCA & counsel)	
9-23	Appl. of pltf. for ext. of time to transmit record on appeal, filed.rm	
9-23	Order, filed, granting Clerk to 11/10/76 to transmit record on appeal.(AEB-J)rm-copies to counsel and USCA	
9-30	Motion of pltf. for leave to appeal in f.p., with affidavit of Gerald Gresham attached, filed. rm	
10-4	Order, filed, that Motion to Appeal in Forma Pauperis filed by pltf. is hereby denied.s (AEB-J) cps. mld.	
10-28	Appeal record (1 vol.) sent to USCA. g	
4-18-77	Mandate and Opinion of 10th Circuit, filed and spread of record, reversing and remanding cause with directions to reinstate it and conduct further proceedings consistent with opinion. rm	
4-18	Original appeal record (1 vol) received from USCA. rm	
5-2	27. Order, filed, sua sponte that 76-C-460-B be consolidated with 74-C-427-B. Further, it is ordered that the mot. for S/J filed in 76-C-460-B by defts. is overruled. Further, the abatement heretofore entered in 76-C-460-B is set aside. Further, the defts. are ordered to file any answer in support of their position within 15 days from this date. Further, parties are directed to hold a pre-trial conference on or before 7-1-77 and to complete all discovery by 6-15-77. Parties are to submit an approved pre-trial order on or before 7-9-77. (AEB-J)k cps mld	

DATE	PROCEEDINGS	Date Order or Judgment Note
1977		
5-17	28. Defts. Neill-Price Intl. Inc. also sued as Neill-Price Const. co. ans. fld. ho	
5-25	29. Answers to Interrogs., fld. by Deft. Neill-Price International, Inc. v	
6-10	30. Entry of appearance of Ben T. Lampkin as co-counsel for Pltf. fld. ho	
6-27	31. Pltf. interrog. to Defts. fld. ho	
6-27	32. Pltf. request for production. fld. ho	
7-27	33. Deft's answers to interrogatories, filed.k	
7-29	34. Appl. of deft. to require pltf. to submit memo defining and supporting foreign law, filed. rm (O to J)	
8-1	35. Order, filed, directing pltf. to submit a Memorandum w/in 20 days defining and supporting foreign law. (AEB-J)k cps mld	
8-1	36. Pre-trial Order, filed. (AEB-J)k cps mld	
8-22	37. Pltf's appl. for 20 days to file brief defining and supporting foreign law, filed.k <i>copy to me</i>	
8-26	MO: The Court has for consideration pltf's mot. for 20 days to file memorandum of applicable Iranian law, and, being fully advised in the premises, finds that said mot. should be granted. IT IS SO ORDERED. (AEB-J)k cps mld	
9-9	38. Pltf. mot. for ext. of time to file brief. fld. ho O to J.	
9-12	39. Order, fld. granting Pltf. an ext. of time until 9-19-77 to file brief of applicable Iranian Law. (AEB-J) cps mld. ho	
9-22	40. Affid. fo Paul C. Matthews Re: Iranian Law. fld. ho	
10-12	MO: Case set for jury trial on 11-14-77, at 9:30 A.M. (AEB-J)t nts mld cert. w/affid	
11-4	41. Deft's motion for Summary Judgment, filed.k	
11-4	42. Deft's brief in support of mot. for S/J, filed.k	
11-7	MO: It is ordered by the Court that the pltf. file a responsive brief within ten days of this date to deft's mot. for S/J. It is further ordered that this case is stricken from the 11-14-77 jury trial docket at 9:30 a.m. (AEB-J)k cps mld	
11-22	43. Pltf's brief in response to defts' mot. for S/J and affidavit of John Mackechnie, filed.k	
12-1	MO: Case referred to Mag. Robert S. Rizley pursuant to Order No. M-128. (AEB-J) mm	
12-28	MO: Case set for hrg. before Mag. Rizley on deft's mot. for S/J on 1-9-77 at 1:30 p.m. (RSR-Mag)k ntc by KT	
1978		
1-9	MO: Hrg. before Mag. on deft's mot. for S/J at 1:30 p.m. is passed to 1-30-78 at 1:30 p.m. (RSR-Mag)k	
1-12	MO: Hrg. before Mag. on deft's mot. for S/J set for 1-30-78 at 1:30 p.m. is reset for 2:00 p.m. (RSR-Mag)k ntc by KT	
2-2	44. Pltfs. mot. to stay proceedings, fld. ho	
2-23	MO: Case set for hrg. before the Mag. on deft's mot. for S/J on 3-6-78 at 1:45 p.m. (RSR-Mag)k ntc by KT	
3-3	MO: By agreement of the parties, hrg. on deft's mot. for S/J set on 3-6-78 at 1:45 p.m. before the Mag. is stricken. (RSR-Mag)k ntc by KT	
3-3	45. Findings & Recommendations of the Mag., filed. Mag. recommends pltf's mot. to stay proceedings pending settlement of proceedings before the Okla. State Industrial Court be sustained. (RSR-Mag)k <i>copy mld</i>	

CIVIL DOCKET CONTINUATION SHEET

FPI-MAR

PLAINTIFF	DEFENDANT	DOCKET NO. 74-C-427 76-C-460 Cons.
Gerald Gresham	Neill-Price Construction Co. & Neill-Price International, Inc.	PAGE ____ OF ____ PAGES

DATE	NR.	PROCEEDINGS
3-7-79	46.	Order, filed, Staying Proceedings, pending settlement of controversy through proceedings before the Okla. State Industrial Court. (AEB-J)b cps mld
3-16-79	MO:	Case transferred to Judge Fred Daugherty (JCS-Clk)
11-9	MO:	CASE TRANSFERRED TO JUDGE THOMAS R. BRETT. (JCS-CLK)jc
Jan. 28, 1980	MO:	CASE SET FOR STATUS REPORT HEARING on MARCH 6, 1980, at 10:20 A.M. (TRB-J) v -c/m
Mar. 6	Hrg.	Deft. present. Pltf. not present. CASE CALLED FOR STATUS REPORT./ 11:00-11:13. Stay Order previously entered is dissolved and the case is SET FOR PRE-TRIAL HEARING & FOR HEARING ON THE MOTION FOR S/J ON MAY 8, 1980, at 11:20 A.M. Failure of Pltf. to appear will be cause for dismissal for failure to prosecute. (TRB-J) v -ltr for Ct's sign. to Judge. / signed, mld, copy in file
5-8	47	ORDER sustaining defts' motion for summary judgment. (TRB-J)g c/m
5-8	48	JUDGMENT entered in favor of defts. Neill-Price Construction Co. and Neill-Price International, Inc., and against the pltf., Gerald Gresham. (TRB-J)g c/m
5/8	--	PARTIES PHONED COURT and stated that they are in agreement and for the Court to sustain the mot. for S/J. Court will prepare the order. v

JUDGE BRETT

PLAINTIFF

DOCKET NO. _____

PAGE ____ OF ____ PAGES

DATE

NR.

PROCEEDINGS